

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 485

Introduced by Assembly Member Carter

February 24, 2009

An act to add Part 5 (commencing with Section 1500) to Division 2 of the Labor Code, relating to the Civil Air Patrol.

LEGISLATIVE COUNSEL'S DIGEST

AB 485, as amended, Carter. Civil Air Patrol: California Wing: employment leave.

Existing federal law establishes the Civil Air Patrol as the civilian auxiliary of the United States Air Force. Existing state and federal law establish leave provisions for members of the Armed Forces of the United States, the reserve components of the Armed Forces of the United States, and the National Guard.

This bill would require employers employing more than 15 employees to provide not less than 15 days per year of leave, beyond any leave benefits otherwise available to employees, to employees who have been employed by that employer for at least 90 days immediately preceding the commencement of leave, who are *volunteer* members of the California Wing of the Civil Air Patrol, and who have been duly directed and authorized by a political entity that has the authority to authorize an emergency operational mission of the California Wing of the Civil Air Patrol, to respond to an emergency operational mission of the California Wing of the Civil Air Patrol. The employee would be required to give at least 7 days' notice of the intended date upon which the Civil Air Patrol leave will begin if the leave will consist of 5 or more consecutive workdays or as much notice as is practical if the leave will

consist of less than 5 consecutive workdays the employer as much notice as possible of the intended dates upon which the leave would begin and end. The bill would require an employer, upon expiration of the Civil Air Patrol leave taken by an employee, to restore the employee to the position he or she held when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment, unless the employee is not restored because of conditions unrelated to the exercise of the leave rights by the employee.

The bill would authorize an employee to bring a civil action in the state court of appeal of appropriate jurisdiction to enforce the Civil Air Patrol leave rights. The court would be authorized to enjoin any act or practice that violates the Civil Air Patrol leave provisions and to order any equitable relief necessary and appropriate to redress the violation or to enforce the Civil Air Patrol leave rights.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 5 (commencing with Section 1500) is added
2 to Division 2 of the Labor Code, to read:

3
4 PART 5. CIVIL AIR PATROL
5

6 1500. This part shall be known and may be cited as the Civil
7 Air Patrol Employment Protection Act.

8 1501. In this part, the following terms have the following
9 meanings:

10 (a) "Civil Air Patrol leave" means leave requested by an
11 employee who is a *volunteer* member of the civilian auxiliary of
12 the United States Air Force commonly known as the Civil Air
13 Patrol and who has been duly directed and authorized by the United
14 States Air Force, the California Emergency Management Agency,
15 or other political subdivision of the State of California that has the
16 authority to authorize an emergency operational mission of the
17 California Wing of the Civil Air Patrol, to respond to an emergency
18 operational mission of the California Wing of the Civil Air Patrol.

19 (b) "Employee" means a person who may be permitted, required,
20 or directed by an employer for wages or pay to engage in any

1 employment and who has been employed by that employer for at
2 least a 90-day period immediately preceding the commencement
3 of leave, if otherwise eligible for leave.

4 (c) "Employee benefits" means all benefits, other than salary
5 and wages, provided or made available to an employee by an
6 employer and includes group life insurance, health insurance,
7 disability insurance, and pensions, regardless of whether benefits
8 are provided by a policy or practice of an employer.

9 (d) "Employer" means any person, partnership, corporation,
10 association, or other business entity; or the State of California, a
11 municipality, or other unit of local government; that employs more
12 than 15 employees.

13 1502. An employer shall not discriminate against or discharge
14 from employment a member of the Civil Air Patrol because of
15 such membership and shall not hinder or prevent a member from
16 performing service as part of the California Wing of the Civil Air
17 Patrol during an emergency operational mission of the California
18 Wing of the Civil Air Patrol for which a member is entitled to
19 leave under this part.

20 1503. (a) An employer shall provide not less than 15 days per
21 calendar year of unpaid Civil Air Patrol leave to an employee
22 responding to an emergency operational mission of the California
23 Wing of the Civil Air Patrol.

24 (b) (1) ~~An employee shall give at least seven days' notice of~~
25 ~~the intended date upon which the Civil Air Patrol leave will begin~~
26 ~~if the leave will consist of five or more consecutive workdays. If~~
27 ~~practical, the employee shall consult with the employer to schedule~~
28 ~~the leave so as to not unduly disrupt the operations of the employer.~~

29 ~~(2) An employee taking Civil Air Patrol leave for less than five~~
30 ~~consecutive workdays shall give the employer as much advance~~
31 ~~notice as is practical. the employer as much notice as possible of~~
32 ~~the intended dates upon which the Civil Air Patrol leave will begin~~
33 ~~and end.~~

34 ~~(3)~~
35 (2) An employer may require certification from the proper Civil
36 Air Patrol authority to verify the eligibility of the employee for
37 the leave requested *or taken. The employer may deny the leave to*
38 *be taken as Civil Air Patrol leave if the employee fails to provide*
39 *the required certification.*

1 (c) An employee taking leave under this part shall not be
2 required to exhaust all accrued vacation leave, personal leave,
3 compensatory leave, sick leave, disability leave, and any other
4 leave that may be available to the employee in order to take Civil
5 Air Patrol leave.

6 (d) *Nothing in this act prevents an employer from providing*
7 *paid leave for leave taken pursuant to this part.*

8 1504. (a) An employer shall, upon expiration of a leave
9 authorized by this part, restore an employee to the position held
10 by him or her when the leave began or to a position with equivalent
11 seniority status, employee benefits, pay, and other terms and
12 conditions of employment. An employer may decline to restore
13 an employee as required in this subdivision because of conditions
14 unrelated to the exercise of rights under this part by the employee.

15 (b) An employer and an employee may negotiate for the
16 employer to maintain the benefits of the employee at the expense
17 of the employer during the leave.

18 1505. (a) Taking Civil Air Patrol leave under this part shall
19 not result in the loss of an employee benefit accrued before the
20 date on which the leave began.

21 (b) This part does not affect the obligation of an employer to
22 comply with any collective bargaining agreement or employee
23 benefit plan that provides greater leave rights to employees than
24 the rights provided under this part.

25 (c) The rights provided under this part shall not be diminished
26 by any collective bargaining agreement or employee benefit plan
27 entered into on or after January 1, 2010.

28 (d) This part does not affect or diminish the contract rights or
29 seniority status of an employee not entitled to Civil Air Patrol
30 leave.

31 1506. (a) An employer shall not interfere with, restrain, or
32 deny the exercise or the attempt to exercise a right established by
33 this part.

34 (b) An employer shall not discharge, fine, suspend, expel,
35 discipline, or in any other manner discriminate against an employee
36 who does any of the following:

37 (1) Exercises a right provided under this part.

38 (2) Opposes a practice made unlawful by this part.

39 1507. (a) An employee may bring a civil action in the state
40 court of appeal of appropriate jurisdiction to enforce this part.

1 (b) The court may enjoin any act or practice that violates this
2 part and may order any equitable relief necessary and appropriate
3 to redress the violation or to enforce this part.
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6 **CORRECTIONS:**

7 **Text—Page 3.**

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